

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PATRICK SHIH, M.D., P.A.,	§ § § § §	
<i>Plaintiff,</i>		
 vs.		
		CIVIL ACTION NO. 4:22-cv-01577
 AETNA LIFE INSURANCE	§ § § § §	
COMPANY,		
<i>Defendant.</i>		

JOINT RULE 26(f) REPORT

Pursuant to the Court's May 19, 2022 Order for Conference and Disclosure of Interested Parties (Doc. 2), the undersigned Parties respectfully submit the following Joint Rule 26(f) Report.

I. BACKGROUND

This case involves claims brought by Patrick Shih, M.D., P.A. (Shih) arising from alleged underpayment of emergency medical services provided by Shih to a health plan member. (Doc. 1-4). Shih is an out-of-network provider under the health plan. Defendant Aetna Life Insurance Co. (Aetna) removed this case on federal question grounds alleging the plan at issue is governed by ERISA. (Doc. 1).

Shih contends its claims are independent of ERISA and has filed a motion to remand the case. (Doc. 10). Aetna contends, however, that the case was properly removed and has filed an opposition to Shih's motion (Doc. 11) and intends to ask the Court to enter an ERISA case order to manage the proceedings.

II. PROPOSED SCHEDULING ORDER

Although Plaintiff and Defendant disagree on whether the Court should enter a scheduling order, the parties agree that it should refrain from entering an order until it has ruled on Plaintiff's

motion to remand. Should the Court deny Plaintiff's motion to remand, Defendant contends the Court should enter Defendant's proposed ERISA case order.

Dated: September 9, 2022.

Respectfully Submitted,

/s/ Jonathan M. Herman (by permission)
Jonathan M. Herman TX Bar No. 24052690
Charles W. Hill (TX Bar No. 24063885)
HERMAN LAW FIRM
1601 Elm Street, Suite 2002
Dallas, Texas 75201
Telephone: (214) 624-9805
Facsimile: (469) 383-3469
jherman@herman-lawfirm.com
chill@herman-lawfirm.com

Counsel for Defendant
Aetna Life Insurance Company

and

/s/ Zachary W. Thomas
Scott Nichols
Texas Bar No. 14994100
Zachary W. Thomas
Texas Bar No. 2470739
Robert J. Carty, Jr.
Texas Bar No. 00788794
NICHOLS BRAR WEITZNER & THOMAS LLP
2402 Dunlavy Street
Houston, Texas 77006
zthomas@nicholsbrar.com
rcarty@nicholsbrar.com

Counsel for Patrick Shih, M.D., P.A.

CERTIFICATE OF SERVICE

On September 9, 2022, I electronically submitted the foregoing document with the Clerk of the Court for the U.S. District Court, Southern District of Texas, using the electronic case filing system of the Court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Zachary W. Thomas
Zachary W. Thomas